

**BID FORM****MISSOURI DEPARTMENT OF TRANSPORTATION****GENERAL SERVICES**

3901 East 32<sup>nd</sup> Street  
Joplin, MO 64804

REQUEST NO.	D7-11-037
DATE	April 1, 2011
PAGE NO.	1
NO. OF PAGES	22

SEALED BIDS, SUBJECT TO THE ATTACHED CONDITIONS WILL  
BE RECEIVED AT THIS OFFICE UNTIL

1:00 p.m., Local Time, April 26, 2011

AND THEN PUBLICLY OPENED AND READ FOR FURNISHING  
THE FOLLOWING SUPPLIES OR SERVICES.

**BIDS TO BE BASED F.O.B. MISSOURI DEPARTMENT OF  
TRANSPORTATION**

Submit net bid as cash discount stipulations will not be considered

**See Attached**

DEFINITE DELIVERY DATE SHOULD BE SHOWN. SIGN AND RETURN BEFORE TIME SET FOR OPENING. **ALL BIDS MUST  
BE EXTENDED AND TOTALED.**

**BUYER:** Cathy Bay  
**BUYER EMAIL:**  
Cathy.Bay@modot.mo.gov

**BUYER TELEPHONE:** 417-621-6354

**SUPPLIES OR SERVICES**

To establish a contract to construct stream bank stabilization on MoDOT right of way adjacent to Big Dry Wood Creek in Vernon County, Missouri along Route 54 in accordance with the following pages.

**\*\*\*NOTE: It is the responsibility of the Bidder to access MoDOT's website in order to obtain any and all addenda(s) issued during the course of this RFB Process.**

Note to Respondent – A vendor must be in compliance with the laws regarding conducting business in the State of Missouri. The compliance to conduct business in the state shall include but may not be limited to: Registration of business name - vendors MUST submit a bid that correctly and accurately identifies the company name that is registered to do business in the State of Missouri. All vendors who are required to execute a contractual agreement MUST submit a copy of their certificate with the signed copy of the contract agreement before the purchasing department can proceed with Missouri Highway and Transportation Commission (MHTC) legal contract approval.

**Return sealed bid to the address shown at the top of this page.**

(SEE ATTACHED FOR CONDITIONS AND INSTRUCTIONS)

*In compliance with the above Request for bid, and subject to all conditions thereof, the undersigned bidder agrees to furnish and deliver any or all the items on which prices were quoted within the timeframe specified herein.*

**Date:** \_\_\_\_\_  
**Telephone No.:** \_\_\_\_\_  
**Fax No.:** \_\_\_\_\_  
**Federal I.D. No.** \_\_\_\_\_  
**Email Address:** \_\_\_\_\_

**Firm Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**By (Signature):** \_\_\_\_\_  
**Type/Print Name** \_\_\_\_\_  
**Title:** \_\_\_\_\_

## **1. INTRODUCTION AND GENERAL INFORMATION**

### **1.1 Introduction:**

This Request for Bid seeks bids from qualified organizations to provide services for the construction of stream bank stabilization along Big Dry Wood Creek adjacent to Route 54 in Vernon County, MO, to the Missouri Highways and Transportation Commission (MHTC) and Missouri Department of Transportation (MoDOT) District 7. Each bid must be mailed in a sealed envelope to Ms. Cathy Bay, General Services Procurement Unit, 3901 East 32<sup>nd</sup> Street, Joplin, Mo 64804, or hand-delivered in a sealed envelope to the General Services Procurement Office in the District 7 Missouri Department of Transportation General Services Building located at 3901 East 32<sup>nd</sup> Street, Joplin, Missouri 64804. All questions regarding the RFB shall be submitted to Ms. Cathy Bay. Bids must be returned to the office of Ms. Cathy Bay no later than 1:00 p.m., local time, April 26, 2011.

#### **RFB Coordinator:**

**Ms. Cathy Bay**

**Missouri Department of Transportation**

**3901 East 32<sup>nd</sup> Street**

**Joplin, MO 64804**

**PHONE: 417-621-6354**

**FAX: 417-629-3226**

**EMAIL: [Cathy.Bay@modot.mo.gov](mailto:Cathy.Bay@modot.mo.gov)**

### **1.2 General Information:**

- 1.2.1 This document constitutes an invitation for competitive, sealed bids for the procurement of services for the construction of stream bank stabilization along Big Dry Wood Creek adjacent to Route 54 in Vernon County, MO, as set forth herein.
- 1.2.2 Organization – This document, referred to as a Request for Bid (RFB), is divided into the following parts:
- 1) Introduction and General Information
  - 2) Scope of Work
  - 3) Bid Submission
  - 4) Pricing Page(s)
  - 5) Signature Page(s)
  - 6) Terms and Conditions
  - 7) Attachment A - Special Provisions
  - 8) Attachment B - Special Provisions Construction
  - 9) Exhibit A - Traffic Control
  - 10) Exhibit B - Construction and Material Specifications
  - 11) Exhibit C - Plan Sheets (DSR 217-10-001 EWP Project)
  - 12) Exhibit D - General Wage Order #54

## **2. SCOPE OF WORK**

### **2.1 General Requirements:**

The contractor shall provide services for the construction of stream bank stabilization along Big Dry Wood Creek adjacent to Route 54 in Vernon County, MO, for the Missouri Highway and Transportation Commission (MHTC) and Missouri Department of Transportation (MoDOT), in accordance with the provisions and requirements stated herein. Work shall be performed according to the “Missouri Standard Specifications for Highway Construction, 2004” and “Missouri Standard Plans for Highway Construction, 2009” and their revisions, “General Provisions & Supplemental Specifications” and “Supplemental Plans to October 2009 Missouri Standard Plans for Highway Construction”. The most recent version can be found at the web address: [http://www.modot.mo.gov/business/standards\\_and\\_specs/highwayspecs.htm](http://www.modot.mo.gov/business/standards_and_specs/highwayspecs.htm). The term “engineer” in this proposal shall be as defined in Section 101 of the Missouri Standard Specifications for Highway Construction. In addition, all construction materials and requirements of the work shall be in accordance to the current Missouri Standard Plans for Highway Construction. The standard plans can be found at the web address: [http://www.modot.mo.gov/business/standards\\_and\\_specs/currentstandardplans.htm](http://www.modot.mo.gov/business/standards_and_specs/currentstandardplans.htm).

2.1.1 The contractor shall provide all services to the sole satisfaction of MoDOT.

### **2.2 Specific Requirements:**

2.2.1 The contractor shall provide work for the construction of stream bank stabilization along Big Dry Wood Creek adjacent to Route 54 in Vernon County, MO.

2.2.2 The contractor shall provide the equipment, materials and manpower necessary to for the construction of the improvements shown on the attached plans designated as Exhibit C - Plan Sheets DSR 217-10-001 EWP Project.

2.2.3 The contractor shall comply with the requirements in: Attachment A - Special Provisions and Attachment B - Special Provisions Construction

2.2.4 All construction materials and requirements of the work shall be in accordance with the construction specifications titled, “Exhibit B – Construction and Material Specifications” and any documents referenced therein.

### **2.3 Project Contact**

2.3.1 All questions concerning this project shall be forwarded to the project contact person listed below.

Jerry Davis, P.E.  
Area Engineer  
Missouri Department of Transportation  
District 7, 3901 East 32<sup>nd</sup> Street  
Joplin, MO 64802  
Phone: 417-621-6311  
e-mail: [Jerry.Davis@modot.mo.gov](mailto:Jerry.Davis@modot.mo.gov)

The project contact may designate another project contact in writing to the contractor.

## 2.4 Schedule of Work

The contractor shall begin work upon receiving notification from MoDOT that the executed contract has been finalized. Once work has started the contractor shall complete the work within thirty (30) calendar days minus holidays. The contractor shall notify the project contact in writing or by e-mail one week prior to beginning work. No work will be performed on **holidays** unless specifically authorized by the project contact.

The following days shall be construed as **official holidays** under the terms of the contract:

January 1	New Year's Day
Third Monday in January	Martin Luther King, Jr.'s Birthday
February 12	Lincoln's Birthday
Third Monday in February	Washington's Birthday
May 8	Truman's Birthday
Last Monday in May	Memorial Day
July 4	Independence Day
First Monday in September	Labor Day
Second Monday in October	Columbus Day
November 11	Veteran's Day
Fourth Thursday in November	Thanksgiving Day
December 25	Christmas Day

## 2.5 Traffic Control

**2.5.1 Description.** Work zone traffic management shall be in accordance with applicable portions of Division 100 and Division 600 of the Missouri Standard Specifications for Highway Construction, and specifically as follows.

### 2.5.2. Traffic Management Schedule.

**2.5.2.1** Traffic management schedules shall be submitted to the engineer for review prior to the start of work and prior to any revisions to the traffic management schedule. The traffic management schedule shall include the proposed traffic control measures, hours traffic control will be in place, and work hours.

**2.5.2.2** The contractor shall notify the engineer prior to lane closures. If the contractor chooses to close a lane of traffic to perform the work he shall provide signing and flagger, or temporary signal operation while the lane of traffic is closed. Signing and sequencing for road closure shall be accordance with Exhibit A. Other Traffic Control Signing for other situations can be found at :

[http://epg.modot.org/index.php?title=616.23\\_Traffic\\_Control\\_for\\_Field\\_Operations](http://epg.modot.org/index.php?title=616.23_Traffic_Control_for_Field_Operations)

If the contractor chooses to use other traffic control measures than what is found in the aforementioned "Traffic Control for Field Operations" it must be submitted for review and approval by the engineer.

**2.5.2.3** The engineer shall be notified as soon as practical of any postponement due to weather, material or other circumstances.

**2.5.2.4** In order to ensure minimal traffic interference, the contractor shall schedule lane closures for the absolute minimum amount of time required to complete the work. Lanes shall not be closed until material is available for continuous construction and the contractor is prepared to diligently pursue the work until the closed lane is opened to traffic.

**2.5.2.5 Traffic Congestion.** The contractor shall, upon approval of the engineer, take proactive measures to reduce traffic congestion in the work zone.

**2.5.2.6 Traffic Delay.** The contractor shall be responsible for maintaining the existing traffic flow through the job site during construction. If disruption of the traffic flow occurs and traffic is backed up in queues of 15 minute delays or longer, then the contractor shall review the construction operations which contributed directly to disruption of the traffic flow and make adjustments to the operations to prevent the queues from occurring again.

**2.5.3 Traffic Safety.**

**2.5.3.1**Where traffic queues routinely extend to within 1000 feet (300 m) of the ROAD WORK AHEAD, or similar, sign on a divided highway or to within 500 feet (150 m) of the ROAD WORK AHEAD, or similar, sign on an undivided highway, the contractor shall extend the advance warning area, as approved by the engineer.

**2.5.3.2** When a traffic queue extends to within 500 feet (150 m) of the ROAD WORK AHEAD, or similar, sign on an undivided highway due to non-recurring congestion, the contractor shall deploy a means of providing advance warning of the traffic congestion, as approved by the engineer. The warning location shall be no less than 500 feet (150 m) and no more than 0.5 mile (0.8 km) in advance of the end of the traffic queue on undivided highways.

**2.5.4. Work Hour Restrictions.**

**2.5.4.1**There are three major summer holiday periods: Memorial Day, Independence Day, and Labor Day. All lanes shall be scheduled to be open to traffic during these holiday periods, from 12:00 noon on the last working day preceding the holiday until 9:00 a.m. on the first working day subsequent to the holiday.

**2.5.4.2** The contractor shall not perform any construction operation on the roadway, including the hauling of material within the project limits, during restricted periods, holiday periods or other special events specified in the contract documents. All lanes shall be opened to traffic one-half hour before sunset and remain open till one-half hour after sunrise.

**2.6 Utilities**

**2.6.1** For informational purposes only, the following is a list of names, addresses, and telephone numbers of the known utility companies in the area for this improvement:

<u>Utility Name</u>	<u>Known Required Adjustment</u>
<u>Communications</u>	
KLM Telephone P.O. Box 30 Rich Hill, MO 64779 417-395-2121 417-321-2537	No
<u>Gas</u>	
Empire District Gas 819 E. Minnesota Nevada, MO 64772	No

Electric

KCP&L  
721 N. Osage  
Nevada, MO 64772  
877-729-8696

No

- 2.6.2** The existence and approximate location of utility facilities known to exist, as shown on the plans, are based upon the best information available to the Commission at this time. This information is provided by the Commission "as-is" and the Commission expressly disclaims any representation or warranty as to the completeness, accuracy, or suitability of the information for any use. Reliance upon this information is done at the risk and peril of the user, and the Commission shall not be liable for any damages that may arise from any error in the information. It is, therefore, the responsibility of the contractor to verify the above listing information indicating existence, location and status of any facility. Such verification includes direct contact with the listed utilities.
- 2.6.3** The contractor agrees that any effects of the presence of the utilities, their relocation, contractor's coordination of work with the utilities and any delay in utility relocation shall not be compensable as a suspension of work, extra work, a change in the work, as a differing site condition or otherwise including but, without limitation, delay, impact, incidental or consequential damages. The contractor's sole remedy for the effects of the presence of utilities, delay in their relocation or any other effects shall be an excusable delay as provided in Section 105.7.3. The contractor waives, for itself, its subcontractors and suppliers the compensability of the presence of utilities, delay in their relocation and any cost to the contractor, its subcontractors and suppliers in any claim or action arising out of or in relation to the work under the contract.
- 2.6.4** The contractor shall be solely responsible and liable for incidental and consequential damage to any utility facilities or interruption of the service caused by it or its subcontractors operation. **The contractor shall hold and save harmless the Commission from damages to any utility facilities interruption of service by it or its subcontractor's operation.**
- 2.6.5** **The contractor is responsible for verifying the location and presence of utilities through the Missouri One Call System as indicated on the plan sheets.**
- 2.7 Invoicing and Payment Requirements:**
- 2.7.1** The contractor shall submit, on the contractor's letterhead, an invoice to MoDOT District 7 for compensation due.
- 2.7.2** The contractor must submit an invoice for the services specified herein **by no later than thirty (30) calendar days after completion of the project.**
- a. In the event that the contractor does not submit all invoices by thirty (30) calendar days after completion, the contractor shall understand and agree that the contractor may not receive payment for services.
- 2.7.3** The contractor shall be paid in accordance with the firm, fixed price specified on the Pricing Page of this document for all services performed satisfactorily, and performed in accordance with the contractual requirements specified herein. However, the contractor shall understand and agree that under no circumstance shall the contractor be paid in excess of the firm, fixed price stated on the pricing page of this document.
- a. The contractor shall understand and agree that no partial payment shall be paid to the contractor for incomplete work.

2.7.4 Other than the payment specified above, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.

## **2.8 Other Contractual Requirements:**

2.8.1 General Wage Order: The contractor shall be required to comply with the General Wage Order as fixed by the Missouri Department of Labor and Industrial Relations, in effect as of the date of the issuance of the solicitation, for each affected craft and type of workmen in Vernon County. The **General Wage Order #54** may be inspected at any District Office or at the Central Office in Jefferson City, MO.

- a. The contractor shall submit notarized weekly payroll affidavit documentation included with the project request for payment. The successful vendor must provide a lien waiver from all material suppliers.

2.8.2 The contractor understands and agrees that by signing the RFB document or contract, they certify the following:

- a. The contractor shall only utilize personnel authorized to work in the United States in accordance with applicable federal and state laws. This includes but is not limited to the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and INA Section 274A.
- b. If the contractor is found to be in violation of this requirement or the applicable state, federal and local laws and regulations, and if the State of Missouri has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States, the state shall have the right to cancel the contract immediately without penalty or recourse and suspend or debar the contractor from doing business with the state.
- c. The contractor agrees to fully cooperate with any audit or investigation from federal, state or local law enforcement agencies.
- d. In addition, the contractor shall maintain enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services included herein.

2.8.3 Liquidated Damages: In the event the successful Contractor fails to complete the project within the time specified, the Department and the public will sustain damages because of such delay in completion of work, the exact extent of which would be difficult to ascertain, and in order to liquidate such damage in advance it is agreed that the sum of three-hundred dollars (\$300.00) per day, for each assessable calendar day on which the work has not been completed, is reasonable and the best estimate which the parties can arrive at as liquidated damages, and it is therefore agreed that said amount will be withheld from payments due the Contractor or otherwise collected from the Contractor as liquidated damages. Saturdays, Sundays, holidays and days whereas the Department has suspended work shall not be assessable days.

2.8.4 Contractor Questionnaire: The Contractor must submit a completed Contractor Questionnaire with attachments not later than seven (7) days prior to the date and hour of the bid opening. See Section 102.2 of the Missouri Standard Specifications for Highway Construction, and Rule 7 CSR 10-15.900, "Pre-qualifications to Bid of Certain Contractors". The questionnaire and contact information are provided on MoDOT's website at <http://www.modot.org/business/BecomeAMoDOTPrimeContractor.htm>.

### 3. BID SUBMISSION

#### 3.1 Bid Submission Information:

##### 3.1.1 Proposal/Bid Guaranty/Contract Bond:

- a. Each bid shall be accompanied by a Bid Bond, Certified Check, Cashier's Check or Bank Money Order payable to the Director of Revenue--Credit State Road Fund for an amount equal to Five Percent (5%) of the amount of the BID submitted. This is to act as a guarantee that the bidder, if awarded the contract, will furnish an acceptable performance and payment bond (Contract Bond) or a cashier's check, a bank money order or a certified check made payable to "Director of Revenue--Credit State Road Fund" in an amount equal to One Hundred percent (100%) of the contract price. ***The annual MoDOT bid bond does not apply to this request.***
- b. If a BID BOND is used (in lieu of a certified check, cashier's check, or bank money order), it must be in the form provided and executed by the bidder as principal and by a surety company authorized to do business in the State of Missouri as surety. The agent executing the same on behalf of the surety company must attach a current Power of Attorney setting forth his authority to execute the bond involved.
- c. Certified Checks, Cashier's Checks or Bank Money Orders of unsuccessful bidders will be returned as soon as the award is made. The checks or bank money orders of the successful bidder will be retained until the contract is executed and a satisfactory Performance and Payment bond (Contract Bond) is furnished. Bid Bonds will not be returned except on specific request of the bidder.

##### 3.1.2 Failure to Execute Contract:

- a. Failure to execute the contract and file acceptable performance payment (Contract Bond) or cashier's check, bank money order or certified check within **15 days** after the contract has been mailed to the bidder shall be just cause for the cancellation of the award and the forfeiture of the bid guaranty. Award may then be made to the next lowest responsible bidder, or the work may be re-advertised and performed under contract or otherwise, as the Commission may decide. No contract shall be considered effective until it has been executed by all parties thereto.

##### 3.1.3 All bids must be received in a sealed envelope clearly marked **“Big Dry Wood Creek Stream Bank Stabilization, Route 54, Vernon County D7-11-037”**.

##### 3.1.4 All bids must be received at the following address no later than **April 26, 2011 at 1:00 p.m.**, local time.

The Missouri Department of Transportation  
General Services Procurement – District 7  
Attn: Cathy Bay  
3901 East 32<sup>nd</sup> Street  
Joplin, MO 64804

##### 3.1.5 The contractor shall submit one (1) bid. The bid shall be a total lump sum amount for the mobilization, Pollution Control, Rock Riprap (MoDOT type I Rock Blanket) and Rock Riprap (MoDOT type II Rock Blanket) for the construction of stream bank stabilization along Big Dry Wood Creek adjacent to Route 54 in Vernon County, MO, as designated on attached plans titled “DSR 217-10-001”.

- 3.1.6 Contract Award – The contract will be awarded to the lowest responsible bidder determined as specified above.
- a. Award of this bid will be made by using the “lowest and responsible” principle of award, providing the prices are acceptable to the Commission. In the event of tie low bids, the Commission reserves the right to establish the method to be used in determining the award.
  - b. Award of bid will be contingent upon receipt of all required documentation and certificates.
- 3.1.7 Cost Determination – The low bid shall be determined by the “Lump Sum Amount” quoted.
- 3.1.8 The bidder may withdraw, modify or correct his bid after it has been deposited with the Department provided such request is submitted in writing and received at the location designated for the bid opening prior to the time specified for opening bids. Such a request received as specified will be attached to the bid and the bid will be considered to have been modified accordingly. No bid may be modified after the time specified for the opening of bids.
- 3.1.9 Open Competition / Request For Bid Document:
- a. It shall be the bidder’s responsibility to ask questions, request changes or clarification, or otherwise advise MoDOT if any language, specifications or requirements of an RFB appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFB to a single source. Any and all communication from bidders regarding specifications, requirements, competitive bid process, etc., must be directed to the buyer from MoDOT, unless the RFB specifically refers the bidder to another contact. Such communication should be received at least three (3) working days prior to the official bid opening date.
  - b. Bidders are cautioned that the only official position of the State of Missouri is that which is issued by MoDOT in the RFB or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
  - c. MoDOT monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among bidders, price-fixing by bidders, or any other anticompetitive conduct by bidders, which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General’s Office for appropriate action.

#### 4. PRICING PAGE

- 4.1 Stream Bank Stabilization, Route 54, Vernon County:** The bidder shall provide firm, fixed prices in the table below for providing the services in accordance with the provisions and requirements of this RFB. All costs associated with providing the required services specified elsewhere herein must be included in the stated **LUMP SUM** price.

Streambank Stabilization, Route 54 Vernon County		
	Description	Lump Sum <i>Firm, Fixed Price</i>
	Construction of stream stabilization according to attached plans labeled DSR 217-10-001 and accompanying specification.  <i>Location: Along Route 54 adjacent to Big Dry Wood Creek in Vernon County, MO.</i>	\$ _____

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Date*

**ANTI-COLLUSION STATEMENT**

**STATE OF** \_\_\_\_\_ )  
\_\_\_\_\_) **SS.**  
**COUNTY OF** \_\_\_\_\_ )

\_\_\_\_\_  
\_\_\_\_\_ being first duly

sworn, deposes and says that he is \_\_\_\_\_  
Title of Person Signing

of \_\_\_\_\_

\_\_\_\_\_  
Name of Bidder

that all statements made and facts set out in the bid for the above project are true and correct; and that the bidder (The person, firm, association, or corporation making said bid) has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with such bid or any contract which may result from its acceptance.

Affiant further certifies that bidder is not financially interested in, or financially affiliated with, any other bidder for the above project.

By \_\_\_\_\_

By \_\_\_\_\_

By

\_\_\_\_\_

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

## SIGNATURE AND IDENTITY OF BIDDER

The undersigned states that the correct LEGAL NAME and ADDRESS of (1) the individual Bidder, (2) each partner or joint venture (whether individuals or corporations, and whether doing business under a fictitious name), or (3) the corporation (with the state in which it is incorporated) are shown below; that (if not signing with the intention of binding himself to become the responsible and sole contractor) he is the agent of, and duly authorized in writing to sign for the Bidder or Bidders; and that he is signing and executing this (as indicated in the proper spaces below) as the bid of a

( ) sole individual

( ) partnership

( ) joint venture

( ) corporation, incorporated under laws of state of \_\_\_\_\_

Dated \_\_\_\_\_.

Name of individual, all partners,  
or joint ventures:

Address of each:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

doing business under the name of:

Address of principal place of business in Missouri

(If using a fictitious name, show  
this name above in addition  
to legal names)

(If a corporation, show its name above)

ATTEST: (SEAL)

_____	_____
Secretary	Title

(NOTE: If the Bidder is doing business under a FICTITIOUS NAME, the bid shall be executed in the legal name of the individual, partners, joint ventures, or corporation, with the legal address shown, and REGISTRATION OF FICTITIOUS NAME filed with the Secretary of State, as required by Sections 417.200 to 417.230, RS Mo. If the Bidder is a CORPORATION NOT ORGANIZED UNDER THE LAWS OF MISSOURI, it shall procure a CERTIFICATE OF AUTHORITY TO DO BUSINESS IN MISSOURI, as required by Section 351.570 and following, RS Mo. A CERTIFIED COPY of such Registration of Fictitious Name or Certificate of Authority to do Business in Missouri shall be filed with the Missouri Highways and Transportation Commission, as required by the Standard specifications, Sec 102.6.6 and 102.6.7.

**Stream Bank Stabilization Rte 54 , Vernon County**  
**RFB D7-11-37**  
**BID BOND**

KNOW ALL PERSONS BY THESE PRESENTS, that we \_\_\_\_\_,  
\_\_\_\_\_, as principal and  
\_\_\_\_\_ as surety, are held and firmly bound  
unto the state of Missouri (acting by and through the Missouri Highways and Transportation Commission) in the  
penal sum of: \_\_\_\_\_ Dollars  
(\$\_\_\_\_\_) to be paid to the commission to be credited to the state road fund, the principal and  
surety binding themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly  
by these presents.

Sealed with our seals and dated this \_\_\_\_\_

THE CONDITION OF THIS OBLIGATION is such that:

WHEREAS, the principal is submitting herewith a bid to the commission on route(s) 54 in Vernon County(s),  
project(s) RFB D7-11-037 for construction or improvement of state highway as set out in said bid;

NOW THEREFORE, if the commission shall accept the bid of the principal and if the principal shall properly  
execute and deliver to the commission the contract, contract bond, and evidence of insurance coverage in compliance  
with the requirements of the bid, the specifications, and the provisions of section 227.100 RSMo, to the satisfaction  
of the commission, then this obligation shall be void and of no effect, otherwise to remain in full force and effect.

In the event the said principal shall, in the judgment of the commission, fail to comply with any requirement as set  
forth in the preceding paragraph, then the state of Missouri, acting by and through the commission, shall immediately  
and forthwith be entitled to recover the full penal sum above set out, together with court costs, attorney's fees, and  
any other expense of recovery.

The principal and surety hereby certify that the document is the original or a verbatim copy of the bid bond form  
furnished by the Commission, in accordance with Sec 102.9 of the Missouri Standard Specifications for Highway  
Construction.

(SEAL)

\_\_\_\_\_  
Principal

By

\_\_\_\_\_  
Signature

(SEAL)

\_\_\_\_\_  
Surety

By

\_\_\_\_\_  
Signature of Attorney in Fact

NOTE: This bond must be executed by the principal, and by a corporate surety authorized to conduct surety business in the  
State of Missouri.

# PREFERENCE IN PURCHASING PRODUCTS

DATE: \_\_\_\_\_

The bidders attention is directed to Section 34.076 RSMo 2000 which gives preference to Missouri corporations, firms, and individuals when letting contracts or purchasing products.

Bids/Quotations received will be evaluated on the basis of this legislation.

**All vendors submitting a bid/quotation must furnish ALL information requested below.**

## FOR CORPORATIONS:

State in which incorporated: \_\_\_\_\_

## FOR OTHERS:

State of domicile: \_\_\_\_\_

## FOR ALL VENDORS:

List address of Missouri offices or places of business:

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## THIS SECTION MUST BE COMPLETED AND SIGNED:

**FIRM NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **ZIP:** \_\_\_\_\_

**BY (signature required):** \_\_\_\_\_

**Federal Tax I.D. #:** \_\_\_\_\_ **if no Federal Tax I.D. # - list Social Security #:** \_\_\_\_\_

NOTE: For bid/quotation to be considered, the "Preference in Purchasing Products" form must be on file in the General Services (Procurement) Division and must be dated in the current calendar year.

## MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT

The bidder's attention is directed to the Missouri Domestic Products Procurement Act, Sections 34.350 to 34.359, RsMO, which requires all manufactured goods or commodities used or supplied in the performance of this contract or any subcontract to be manufactured or produced in the United States.

Section 34.355, RsMO, requires the vendor or contractor to certify his compliance with Section 34.353 and, if applicable, Section 34.359, RsMO, at the time of bidding **and** prior to payment. Failure to comply with Section 34.353, RsMO, during the performance of the contract **and** to provide certification of compliance prior to payment will result in nonpayment for those goods or commodities.

Section 34.353.2, RsMO, specifies that it does not apply where the total contract is less than Twenty-Five Thousand Dollars (\$25,000.00). If your total bid is Twenty-Five Thousand Dollars (\$25,000.00) or more, you **must** complete this form as directed below.

**Failure to complete and return this document with this bid will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis. Please read the certification appearing below on this form.**

[ ] If all the goods or products specified in the attached bid which the bidder proposes to supply to the State shall be manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left.

[ ] If only one item of any particular goods or products specified in the attached bid is manufactured or produced in the "United States" as defined in Section 34.350, RsMO, check the box at left and list the items (or item number) here:

[ ] If any or all of the goods or products specified in the attached bid which the bidder proposes to supply to the State are **not** manufactured or produced in the "United States" as defined in Section 34.350, RsMO, then: (a) check the box at left; (b) list below, by item (or item number), the country other than the United States where each good or product is manufactured or produced; and (c) check the boxes to the left of the paragraphs below if applicable and list the corresponding items (or item numbers) in the spaces provided.

Item (or item number)	Location Where Item Manufactured or Produced

(attach an additional sheet if necessary)

[ ] The following specified goods or products cannot be manufactured or produced in the United States in sufficient quantities or in time to meet the contract specifications. Items (or item numbers): \_\_\_\_\_

[ ] The following specified goods or products must be treated as manufactured or produced in the United States, in accordance with an existing treaty, law, agreement, or regulation of the United States, including a treaty between the United States and any foreign country regarding export-import restrictions or international trade. Items (or item numbers): \_\_\_\_\_

### CERTIFICATION

**By submitting this document, completed as directed above, with a bid, the bidder certifies under penalty of making false declaration (Section 575.060, RsMO) that the information contained in this document is true, correct and complete, and may be relied upon by the State in determining the bidders qualifications under and in compliance with the Missouri Domestic Products Procurement Act.**

**The bidder's failure to complete and return this document with the bid as directed above will cause the State to presume the manufactured goods or products listed in the bid are not manufactured or produced in the United States, and the bid will be evaluated on that basis pursuant to Section 34.353.3(2), RsMO.**

## MISSOURI SERVICE-DISABLED VETERAN BUSINESS PREFERENCE

By virtue of statutory authority, RSMo 34.074, a preference will be given all contracts for the performance of any job or service to service-disabled veteran business either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.

### Definitions:

**Service-Disabled Veteran** is defined as any individual who is disabled as certified by the appropriate federal agency responsible for the administration of veterans' affairs.

**Service-Disabled Veteran Business** is defined as a business concern:

- a. Not less than fifty-one (51) percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than fifty-one (51) percent of the stock of which is owned by one or more service-disabled veterans; and
- b. The management and daily business operations of which are controlled by one or more service-disabled veterans.

If an offeror meets the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and is either doing business as a Missouri firm, corporation, or individual; or maintains a Missouri office or place of business, the offeror **must** provide the following with the proposal in order to receive the Missouri service-disabled veteran business preference over a non-Missouri service-disabled veteran business when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing proposals, in their entirety, are comparable:

- a. A copy of a letter from the Department of Veterans Affairs (VA), or a copy of the offeror's discharge paper (DD Form 214, Certificate of Release or Discharge from Active Duty) from the branch of service the offeror was in, stating that the offeror has a service-connected disability rating ranging from 0 to 100% disability; and
- b. A completed copy of this exhibit

(NOTE: For ease of evaluation, please attach copy of the above-referenced letter from the VA or a copy of the offeror's discharge paper to this Exhibit.)

By signing below, I certify that I meet the definitions of a service-disabled veteran and a service-disabled veteran business as defined in 34.074 RSMo and that I am either doing business as a Missouri firm, corporation, or individual; or maintain Missouri offices or places of business at the location(s) listed below.

### Veteran Information

### Business Information

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Service-Disabled Veteran's Name, (Please Print)

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Service-Disabled Veteran Business Name

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*Service-Disabled Veteran's Signature*

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Missouri Address of Service-Disabled Veteran Business

**ANNUAL WORKER ELIGIBILITY VERIFICATION AFFIDAVIT**  
(for joint ventures, a separate affidavit is required for each business entity)

STATE OF \_\_\_\_\_ )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me appeared \_\_\_\_\_, personally known to  
me or proved to me on the basis of satisfactory evidence to be a person whose name is subscribed to this affidavit, who being by me duly  
sworn, stated as follows:

- I, the Affiant, am of sound mind, capable of making this affidavit, and personally certify the facts herein stated, as required by Section 285.530, RSMo, to enter into any contract agreement with the state to perform any job, task, employment, labor, personal services, or any other activity for which compensation is provided, expected, or due, including but not limited to all activities conducted by business entities.

- I, the Affiant, am the \_\_\_\_\_ of \_\_\_\_\_, and I am duly authorized, directed, and/or empowered to act officially and properly on behalf of this business entity.  
title business name

- I, the Affiant, hereby affirm and warrant that the aforementioned business entity is enrolled in a federal work authorization program operated by the United States Department of Homeland Security, and the aforementioned business entity shall participate in said program to verify the employment eligibility of newly hired employees working in connection with any services contracted by the Missouri Highways and Transportation Commission (MHTC). I have attached documentation to this affidavit to evidence enrollment/participation by the aforementioned business entity in a federal work authorization program, as required by Section 285.530, RSMo.

- I, the Affiant, also hereby affirm and warrant that the aforementioned business entity does not and shall not knowingly employ, in connection with any services contracted by MHTC, any alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. § 1324a(h)(3).

- I, the Affiant, am aware and recognize that, unless certain contract and affidavit conditions are satisfied pursuant to Section 285.530, RSMo, the aforementioned business entity may be held liable under Sections 285.525 through 285.550, RSMo, for subcontractors that knowingly employ or continue to employ any unauthorized alien to work within the state of Missouri.

- I, the Affiant, acknowledge that I am signing this affidavit as a free act and deed of the aforementioned business entity and not under duress.

\_\_\_\_\_  
Affiant Signature

Subscribed and sworn to before me in \_\_\_\_\_, \_\_\_\_\_, the day and year first above-written.  
city (or county) state

\_\_\_\_\_  
Notary Public

My commission expires:

***[documentation of enrollment/participation in a federal work authorization program attached]***

## **STANDARD SOLICITATION PROVISIONS**

- a. The Missouri Department of Transportation (MoDOT) reserves the right to reject any or all bids/quotes/proposals, and to accept or reject any items thereon, and to waive technicalities. In case of error in the extension of prices in the bid/quote/proposal, unit prices will govern.
- b. All bids/quotes/proposals must be signed with the firm name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
- c. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown, within the State of Missouri.
- d. Time of delivery is a part of the consideration and, if not otherwise stated in the solicitation documents, must be stated in definite terms by the Bidder/Offeror and must be adhered to. If time varies on different items, the Bidder/Offeror shall so state.
- e. If providing bids/quotes/proposals for commodities, the Bidder/Offeror will state brand or make on each item. If bidding or proposing other than the make, model or brand specified, the manufacturer's name, model number or catalog number must be given.
- f. **For bids/proposals of \$25,000 or more**, no bids/proposals by telephone, telegram or telefax will be accepted.
- g. The date specified for the returning of bids/quotes/proposals is a firm deadline and all bids/quotes/proposals must be received at the designated office by that time. The Department does not recognize the U.S. Mail, Railway Express Agency, Air Express, or any other organization, as its agent for purposes of accepting proposals. All proposals arriving at the designated office after the deadline specified will be rejected.

## **GENERAL TERMS AND CONDITIONS**

### **General Performance**

- a. Bidders are encouraged to obtain minority business enterprise (MBE) and women business enterprise (WBE) participation in this work through the use of subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful participation for M/WBEs. Bidders are encouraged to obtain 10% MBE and 5% WBE participation.
- b. This work is to be performed under the general supervision and direction of the Missouri Department of Transportation (MoDOT) and, if awarded any portion of the work, the Contractor agrees to furnish at his own expense all labor and equipment required to complete the work, it being expressly understood that this solicitation is for completed work based upon the price(s) specified and is not a solicitation for rental of equipment or employment of labor by MoDOT, and MoDOT is to have no direction or control over the employees used by the Contractor in performance of the work.

### **Deliveries**

- a. Unless otherwise specified on the solicitation documents or purchase order, suppliers shall give at least 24 hours advance notice of each delivery. Delivery will only be received between the hours of 8:00 a.m. to 3:00 p.m., Monday through Friday. Material arriving after 3:00 p.m. will not be unloaded until the following workday. No material will be received on Saturday, Sunday or state holidays.
- b. If the prices bid herein include the delivery cost of the material, the Contractor agrees to pay all transportation charges on the material as FOB - Destination. Freight costs must be included in the unit price bid and not listed as a separate line item.
- c. Any demurrage is to be paid by the Contractor direct to the railroad or carrier.

### **Nondiscrimination**

- a. The Contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- b. All solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of the Contractor's obligations under this contract and the Regulations, will be relative to nondiscrimination on the grounds of race, color, or national origin.
  - 1) **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, MoDOT shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
    - i. withholding of payments to the Contractor under the contract until the Contractor complies, and/or,
    - ii. cancellation, termination or suspension of the contract, in whole or in part.

### **Contract/Purchase Order**

- a. By submitting a bid/quote/proposal, the Bidder/Offeror agrees to furnish any and all equipment, supplies and/or services specified in the solicitation documents, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the solicitation documents, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with any changes/additions, (2) the Contractor's proposal and/or submitted pricing, and (3) the MHTC's acceptance of the proposal and/or bid by purchase order or post-award contract.
- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the Contractor must receive a properly authorized purchase order and/or notice to proceed.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the Contractor and the duly authorized representative of the MHTC, by a modified purchase order prior to the effective date of such modification. The Contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

### **Subcontracting**

- a. It is specifically understood that no portion of the material or any interest in the contract, shall be subcontracted, transferred, assigned or otherwise disposed of, except with the written consent of MoDOT. Request for permission to subcontract or otherwise dispose of any part of the work shall be in writing to MoDOT and accompanied by documentation showing that the organization which will perform the work is particularly experienced and equipped for such work.
- b. Consent to subcontract or otherwise dispose of any portion of the work shall not be construed to relieve the Contractor of any responsibility for the

production and delivery of the contracted work and the completion of the work within the specified time.

- c. All payments for work performed by a subcontractor shall be made to the Contractor to whom the contract was awarded and the purchase order issued.

#### **Invoicing and Payment**

- a. MoDOT is exempt from paying Missouri Sales Tax, Missouri Use Tax and Federal Excise Tax. However, the Contractor may themselves be responsible for the payment of taxes on materials they purchase to fulfill the contract. A Project Tax Exemption Certificate will be furnished to the successful Bidder/Offeror upon request if applicable.
- b. Each invoice should be itemized in accordance with items listed on the purchase order and/or contract. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. Unless otherwise provided for in the solicitation documents, payment for all equipment, supplies, and/or services required herein shall be made in arrears. The Missouri Highways and Transportation Commission (MHTC) shall not make any advance deposits.
- d. The MHTC assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any authorized quantity is subject to the MHTC's rejection and shall be returned at the Contractor's expense.
- e. The MHTC reserves the right to purchase goods and services using the state-purchasing card.

#### **Applicable Laws and Regulations**

- a. The contract shall be construed according to the laws of the State of Missouri. The Contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract.
- b. The Contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations. Prior to the issuance of a purchase order and/or notice to proceed, the Contractor may be required to submit to MoDOT a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
  - 1) Prior to the issuance of a purchase order and/or notice to proceed, all **out-of-state** Contractors **providing services** within the state of Missouri must submit to MoDOT a copy of their current Transient Employer Certificate from the Department of Revenue, in addition to a copy of their current Authority Certificate from the Secretary of State of the State of Missouri.
- c. The exclusive venue for any legal proceeding relating to or arising, out of the contract shall be in the Circuit Court of Cole County, Missouri.

#### **Executive Order**

- a. The Contractor shall comply with all the provisions of Executive Order 07-13, issued by the Honorable Matt Blunt, Governor of Missouri, on the sixth (6<sup>th</sup>) day of March, 2007. This Executive Order, which promulgates the State of Missouri's position to not tolerate persons who contract with the state engaging in or supporting illegal activities of employing individuals who are not eligible to work in the United States, is incorporated herein by reference and made a part of this Agreement.
  - 1) "By signing this Agreement, the Contractor hereby certifies that any employee of the Contractor assigned to perform services under the contract is eligible and authorized to work in the United States in compliance with federal law."
  - 2) In the event the Contractor fails to comply with the provisions of the Executive Order 07-13, or in the event the Commission has reasonable cause to believe that the contractor has knowingly employed individuals who are not eligible to work in the United States in violation of federal law, the Commission reserves the right to impose such contract sanctions as it may determine to be appropriate, including but not limited to contract cancellation, termination or suspension in whole or in part or both.
  - 3) The Contractor shall include the provisions of this paragraph in every subcontract. The Contractor shall take such action with respect to any subcontract as the Commission may direct as a means of enforcing such provisions, including sanctions for noncompliance.

#### **Preferences**

- a. In the evaluation of bids/quotes/proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, RSMo. 34.076 and 34.350 to 34.359, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.
  - 1) If attached, the document entitled **"PREFERENCE IN PURCHASING PRODUCTS"** should be completed and returned with the solicitation documents.
  - 2) If attached, the document entitled **"MISSOURI DOMESTIC PRODUCTS PROCUREMENT ACT"** should be completed and returned with the solicitation documents. **Applies if bid is Twenty-Five Thousand Dollars (\$25,000.00) or more.**
- c. By virtue of statutory authority, RSMo 34.074, a preference will be given all contracts for the performance of any job or service to service-disabled veteran business either doing business as Missouri firms, corporations, or individuals; or which maintain Missouri offices or places of business, when the quality of performance promised is equal or better and the price quoted is the same or less or whenever competing bids, in their entirety, are comparable.
  - 1) If attached, the document entitled **"MISSOURI SERVICE-DISABLED VETERAN PREFERENCE"** should be completed and returned with the solicitation documents.
- d. In the event of a tie of low bids, the MHTC reserves the right to establish the method to be used in determining the award

#### **Remedies and Rights**

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the MHTC of any existing or future right and/or remedy available

by law in the event of any claim by the MHTC of the Contractor's default or breach of contract.

- b. The Contractor agrees and understands that the contract shall constitute an assignment by the Contractor to the MHTC of all rights, title and interest in and to all causes of action that the Contractor may have under the antitrust laws of the United States or State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or produced by the Contractor in the fulfillment of the contract with the MHTC.
- c. In the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request MoDOT to enter into such litigation to protect the interests of the MHTC, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### **Cancellation of Contract**

- a. The MHTC may cancel the contract at any time for a material breach of contractual obligations or for convenience by providing the Contractor with written notice of cancellation. Should the MHTC exercise its right to cancel the contract for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the Contractor.
- b. If the MHTC cancels the contract for breach, the MHTC reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the MHTC deems appropriate and charge the Contractor for any additional costs incurred thereby.

#### **Bankruptcy or Insolvency**

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the Contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assigned the benefit or creditors, the Contractor must notify MoDOT immediately. Upon learning of any such actions, the MHTC reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the Contractor responsible for damages.

#### **Inventions, Patents, and Copyrights**

- a. The Contractor shall defend, protect, and hold harmless the MHTC, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the Contractor's performance or products produced under the terms of the contract.

#### **Inspection and Acceptance**

- a. No equipment, supplies, and/or services received by MoDOT pursuant to a contract shall be deemed accepted until MoDOT has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the Contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The MHTC reserves the right to return any such rejected shipment at the Contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The MHTC's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the MHTC may have.

#### **Warranty**

- a. The Contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by MoDOT, (2) be fit and sufficient for the purpose expressed in the solicitation documents, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the MHTC's acceptance of or payment for said equipment, supplies, and/or services.

#### **Status of Independent Contractor**

- a. The Contractor represents itself to be an independent Contractor offering such services to the general public and shall not represent itself or its employees to be an employee of the MHTC. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save and hold the MHTC, its officers, agents and employees harmless from and against any and all losses (including attorney fees) and damage of any kind related to such matters.

#### **Indemnification**

- a. The Offeror shall defend, indemnify and hold harmless the Commission, including its members and department employees, from any claim or liability whether based on a claim for damages to real or personal property or to a person for any matter relating to or arising out of the Offeror's performance of its obligations under this Agreement.

## **SPECIAL TERMS AND CONDITIONS**

### **Insurance**

The Contractor shall maintain or cause to be maintained at Contractor's own expense commercial general liability, automobile liability, worker's compensation insurance against negligent acts, errors or omissions of the Contractor, or its subcontractors and anyone directly or indirectly employed by any of them. Any insurance policy required as specified in this Section shall be written by a company that is licensed and authorized to issue such insurance in the state of Missouri and shall provide insurance coverage for not less than the following limits of liability:

- a. General Liability: Not less than \$500,000 for any one person in a single accident or occurrence, and not less than \$3,000,000 for all claims arising out of a single occurrence;
- b. Automobile Liability: Not less than \$500,000 for any one person in a single accident or occurrence, and not less than \$3,000,000 for all claims arising out of a single occurrence;
- c. Missouri State Workmen's Compensation policy or equivalent in accordance with state law.

Upon request from the Commission, the Contractor shall provide the Commission with certificates of insurance evidencing the required coverage and that such insurance is in effect.

### **Information and Reports**

- a. The Contractor shall provide all information and reports required by the Regulations, or Directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Missouri Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or Directives. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the Missouri Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

### **Permits, Licenses and Safety Issues**

- a. The contract price shall include any necessary permits and licenses required by law incidental to the work. Local ordinances requiring building permits are not applicable to state agencies.
- b. The Contractor will comply with local laws involving safety in the prosecution of the work.

### **Notice to Proceed**

- a. Within **30 days** after the execution of the contract, a "**Notice to Proceed**" will be issued by the Department.

### **Legal Weights**

- a. Provisions of the Missouri Statutes relative to legal weights in regard to axle and gross weights, gross weights in relation to axle spacing and Supplementary Bridge limits all contained in **Sections 304.180 and 304.190 RSMo** are understood and will be abided by. The Department will not accept loads, which exceed legal weights.
- b. It is understood and agreed that the Missouri Department of Transportation may prohibit the use of large trucks hauling heavy loads of material over low type bituminous roads and during adverse weather conditions.

### **Temporary Suspension of Work**

- a. The **District Engineer** shall have authority to suspend work wholly or in part for such period or periods as may be deemed necessary when weather or other conditions are such that in the opinion of the engineer, the work may be done at a later time with advantage to the Department or for failure on the part of the Contractor to comply with any of the provisions of the Contract.
- b. If the Department suspends the work for its own advantages and not because of the Contractor's failure to comply with the Contract, the Contractor will be allowed an equal number of calendar days after the completion date for the completion of the work. The Department may at its discretion give the Contractor an extension of time for completing the work where the Contractor incurs delays for causes beyond his control.
- c. Normal rainfall is not considered a cause qualifying for an extension of time. Claim for extension of time for all causes must be submitted by the Contractor in writing within **30 Days** after the claimed cause for the delay has ceased to exist.

### **Environmental Issues**

Attention of the bidder is invited to the **Land Reclamation Act, Chapter 444, Laws of 1971, (House Bill 519)** and the necessity for compliance if applicable.

The Contractor shall take necessary precautions and shall schedule and conduct his operations so as to avoid or minimize siltation of streams while removing gravel there from.

### **Prohibition Of Employment Of Unauthorized Aliens:**

- a. Pursuant to RSMo 285.530 (1), no business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri. As a condition for the award of any contract or grant in excess of five thousand dollars by the state or by any political subdivision of the state to a business entity, or for any business entity receiving a state-administered or subsidized tax credit, tax abatement, or loan from the state, the business entity shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Every such business entity shall sign an affidavit affirming that it does not knowingly employ any person who is unauthorized alien in connection with the contracted services. [RSMO 285.530 (2)] A copy of the affidavit referenced above is provided within this document.

E-Verify is an example of a federal work authorization program. Acceptable enrollment and participation documentation consists of **completed** copy of the E-Verify Memorandum of Understanding (MOU). For vendors that are not already enrolled and participating in a federal work authorization program, E-Verify is available at [http://www.dhs.gov/xprevprot/programs/qc\\_1185221678150.shtm](http://www.dhs.gov/xprevprot/programs/qc_1185221678150.shtm).

### **Construction Safety Program**

- a. Missouri law, 292.675 RSMo, requires the awarded Contractor and its subcontractor(s) to provide a ten-hour occupational safety and health administration (OSHA) construction safety program (or a similar program approved by the Missouri Department of Labor and Industrial Relations as a qualified substitute) for their on-site employees (laborers, workmen, drivers, equipment operators, and craftsmen) who have not previously completed such a program and are directly engaged in actual construction of the improvement (or working at a nearby or adjacent facility used for construction of the improvement). The Contractor and its subcontractor(s) shall require all such employees to complete this ten-hour program, pursuant to 292.675 RSMo, unless they hold documentation on their prior completion of said program. Penalties for non-compliance include Contractor forfeiture to the Commission in the amount of \$2,500, plus \$100 per contractor and subcontractor employee for each calendar day such employee is employed beyond the elapsed time period for required program completion under 292.675 RSMo.